

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LAURA M. PORTELA,
Plaintiff

VS.

WAL-MART STORES EAST, LP
Defendant

Civil Action No. 05-10844-JLT

JOINT STATUS REPORT

The parties, by and through counsel, state that they have conferred in this matter and hereby submit their Joint Status Report indicating the following:

A. Identification of Expert Witnesses - Wal-Mart identified its expert witnesses on September 27, 2007. Plaintiff identified her expert witnesses on November 2, 2007. Both parties are in the process of producing a report/opinion of each potential expert witness. Upon receipt of each expert report/opinion, the parties may choose to conduct depositions of certain experts. However, as indicated below, the parties would like to mediate the case prior to taking any expert depositions in order to save time and expenses.

B. Expert Reports/Opinions and Outstanding Discovery - The Plaintiff asserts a serious injury and the parties' experts cannot complete their reports until all updated medical records of the Plaintiff have been provided to the parties. In order to get the Plaintiff's updated medical records, new HIPAA authorizations needed to be signed by the Plaintiff. The Plaintiff provided updated and signed HIPAA forms for each of her providers on September 12, 2007 and Wal-Mart has been gathering her updated records since receipt of the HIPAA forms. Because the plaintiff's medical treatment is ongoing, and because her medical providers are outside the continental U.S., the process of obtaining these records has taken longer than anticipated. Once received, Wal-Mart will send the records to Plaintiff's counsel. The Plaintiff has also not yet responded to Wal-Mart's supplemental discovery requests. However, Plaintiff has promised those responses as soon as possible. Upon receipt of the Plaintiff's completed and updated medical records from her current providers, with whom she continues to treat, as well as receipt of Plaintiff's responses to Wal-Mart's last discovery request, Wal-Mart's experts will be in a better position to provide an expert opinion report.

C. Medical Examination of the Plaintiff denied - As noted in the Joint Statement previously filed with the Court, Wal-Mart was desirous of conducting an independent medical examination of the Plaintiff with Dr. James Otis. However, Plaintiff did not agree to appear at an exam with Dr. Otis because she had already appeared for a medical examination with Edward Nalebuff, M.D. Wal-Mart was forced to file a Motion to Compel the IME of the

Plaintiff with Dr. James Otis, which was subsequently denied by this Court (Judge Morris E. Lasker). As a result, Dr. Otis will have to provide a report based on his review of the records alone.

D. Mediation and Settlement status - In the meantime, the parties have scheduled a mediation with Warren Fitzgerald to take place at 10:00a.m. on Wednesday, March 5, 2008. The parties are desirous of using a mediator to assist in settlement discussions due to the complex issues regarding damages and liability. The scheduling of the mediation for this date will allow the parties sufficient time to obtain the necessary medical information, obtain expert reports and provide a comprehensive report to the clients in order to obtain proper settlement authority. If the mediation fails, the parties will promptly conduct any necessary expert depositions. In the event a settlement agreement is not reached at the mediation, the parties agree to conduct the expert depositions within 30 days of the mediation.

E. Final Pre-Trial Conference - Based on the aforementioned information, the parties propose that a final pre-trial conference be held in this matter in April or May, 2008.

F. Trial by Magistrate Judge - The parties will consider the option of a trial by a magistrate judge.

Dated: November 8, 2007

LAURA PORTELA,
By her attorneys,

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